

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**EDDIE MARSHALL, et. al.,
Plaintiffs**

vs

**OHIO DEPARTMENT
OF EDUCATION, et. al.,
Defendants**

**Case No. C-1-02-189
(Weber, J.)
(Hogan, M.J.)**

ORDER TO SHOW CAUSE

On June 16, 2004, Plaintiffs filed their Amended Complaint pursuant to the Court's order. (Doc. 59). Plaintiffs' Amended Complaint seeks to add ten additional defendants. However, to date, the newly named Defendants have not been served with the Amended Complaint.

Proper service of process is required in order for this Court to obtain in personam jurisdiction over each defendant. *Amen v. City of Dearborn*, 532 F.2d 554 (6th Cir. 1976), *cert. denied*, 465 U.S. 1101 (1984). Plaintiff bears the burden of exercising due diligence in perfecting service of process and of showing that proper service has been made. *Campbell v. United States*, 496 F. Supp. 36, 39 (E.D. Tenn. 1980).

Fed. R. Civ. P. 4(m) provides, in pertinent part, as follows:

If a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the

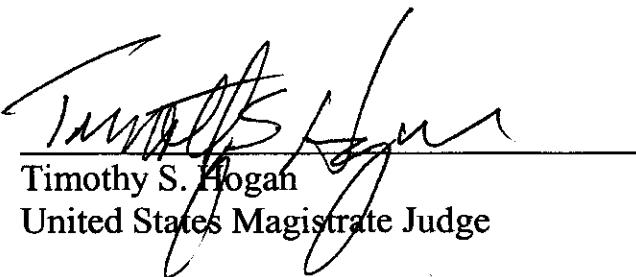
time for service for an appropriate period.

Accordingly, Plaintiffs are hereby notified that the Court proposes to dismiss this action without prejudice. *U.S. v. Gluklick*, 801 F.2d 834, 836-37 (6th Cir. 1986).

Therefore, plaintiffs are ORDERED to show cause, in writing, within twenty (20) days why the Amended Complaint should not be dismissed against Defendants Rachael Jenkins Coriell, Lorraine S. Clerico a.k.a. Lorraine Sparks, Susan E. Goins, Greg Grant, Joseph W. McGraw, Connie Spencer, Anthony W. Taylor, Johnny D. Whisman, Scott Whisman, William D. Williams for failure of service.

SO ORDERED.

Date: 12/16/04



Timothy S. Hogan
United States Magistrate Judge